

# PROPOSED AMENDMENT

## SB 373 # 3

### DIGEST

Carbon sequestration pilot project. Requires the director of the department of natural resources to designate the operator of the carbon sequestration pilot project before July 31, 2021. Provides that material compliance by the pilot project with a permit for a Class VI carbon dioxide underground injection well is an affirmative defense for the pilot project against any civil action or claim for damages or equitable relief alleging infringement of or interference with real or personal property rights or interests related to an injection through or the migration of injectate from an underground injection well subject to the permit. However, provides that: (1) a claimant may overcome the affirmative defense by proving actual interference with the reasonable and foreseeable use of the property or direct physical injury to tangible property; and (2) recovery by a public utility for any effect of the pilot project on the sources of the public water supply used by the public utility is not prohibited or limited.

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- 1           Page 15, between lines 9 and 10, begin a new paragraph and insert:  
2           "SECTION 36. IC 14-39-1-3.5, AS ADDED BY P.L.291-2019,  
3           SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4           JULY 1, 2021]: Sec. 3.5. (a) This chapter authorizes the establishment  
5           of a carbon sequestration pilot project:  
6               (1) that will:  
7                    (A) capture carbon dioxide at the proposed ~~ammonia~~  
8                    **hydrogen** plant to be located at 444 West Sanford Avenue,  
9                    West Terre Haute, Indiana; and  
10                  (B) inject the carbon dioxide underground through one (1) or  
11                  more injection wells pursuant to a Class VI well permit issued  
12                  by the United States Environmental Protection Agency; and  
13                  (2) that will employ the underground ~~storage~~ **injection** of carbon  
14                  dioxide as an alternative to releasing the carbon dioxide into the  
15                  air.  
16               (b) The director shall designate the operator of the carbon  
17               sequestration pilot project according to the characteristics of the pilot  
18               project set forth in subsection (a) **before July 31, 2021.**  
19               SECTION 37. IC 14-39-1-14.1 IS ADDED TO THE INDIANA  
20               CODE AS A **NEW** SECTION TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 2021]: Sec. 14.1. (a) This section applies to a  
2 civil action filed after June 30, 2021.

3 (b) Except as provided in subsection (e), material compliance by  
4 the carbon sequestration pilot project with a Class VI injection  
5 well permit issued by the United States Environmental Protection  
6 Agency is an affirmative defense against any civil action or claim  
7 for damages or equitable relief alleging infringement of or  
8 interference with real or personal property rights or interests that  
9 relates to:

10 (1) an injection through; or

11 (2) the migration of injectate from;

12 an injection well subject to the permit.

13 (c) A claimant may overcome the defense provided by  
14 subsection (b) by proving:

15 (1) actual interference with the reasonable and foreseeable use  
16 of the property; or

17 (2) direct physical injury to tangible property.

18 (d) For the purposes of subsection (c), a diminution in property  
19 value due to a perceived risk that operation of the pilot project  
20 may cause damage or injury does not constitute direct physical  
21 injury to tangible property.

22 (e) This section does not prohibit or limit recovery by a public  
23 utility for any effect of the carbon dioxide pilot project on the  
24 sources of the public water supply used by the public utility."

25 Renumber all SECTIONS consecutively.

(Reference is to SB 373 as printed February 2, 2021.)